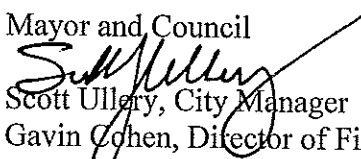




City of Rockville
M E M O R A N D U M

CONFIDENTIAL
PERSONNEL MATTER

April 16, 2008

TO: Mayor and Council
FROM: 
Scott Ullery, City Manager
Gavin Cohen, Director of Finance
SUBJECT: City Legal Services

Recommendation:

Review the information provided on City legal services expenses, consider options for an in house or outsourced City Attorney, and provide direction.

Background:

At its January 7, 2008 meeting, the Mayor and Council directed staff to provide information on City legal expenses and establishing an "in-house" City Attorney.

The City Charter, as quoted below, has the appointment of the City Attorney as the responsibility of the Council.

Section 2. City Attorney.

The Council may appoint a City Attorney who shall serve at its pleasure and at such compensation, as it shall determine. The City Attorney shall be a member of the bar of the Maryland Court of Appeals. The City Attorney shall be the legal adviser of the City and shall perform such duties in this connection as may be required by the Council. The City shall have the power to employ such legal consultants as it deems necessary from time to time.

(Res. No. 8-78; Res. No. 24-60)

Furthermore, Section 17-87 of the City Code, Miscellaneous procurement, has a special exemption when applied to services involving litigation or potential litigation as follows:

Sec. 17-87. Miscellaneous procurement.

The following are exempt from competitive procurement:

(1) Professional services and other services associated with actual or potential litigation, administrative, or regulatory proceedings.

(Ord. No. 13-02, 6-10-02)

Office of the City Attorney – Overview

The City requires effective legal support to respond to claims and lawsuits against the City, manage litigation of personnel matters involving the City's 536 full time employees, and provide day-to-day advice and assistance in the preparation of contracts, resolutions, ordinances, regulations, and other legal documents. The City Attorney acts as legal advisor to the Mayor and Council, Boards and Commissions, and City Staff, and represents the City before administrative agencies and federal and state courts where the City is party to or has an interest in legal proceedings. Table 1 below summarizes the general areas of legal expertise the City requires.

Table 1

Major Areas of Legal Expertise Required		
<ul style="list-style-type: none">○ Land Use○ Bond Financing○ Pension Administration○ Commercial Real Estate○ Bankruptcy○ Election and Open Meetings Law○ Tort Defense	<ul style="list-style-type: none">○ Labor Relations/Union negotiations○ Employment and Benefits○ Environmental○ General Litigation○ Construction	<ul style="list-style-type: none">○ Arbitration○ Code Enforcement○ Liability Claims○ Telecommunications○ Storm water○ Water & Sewer Utilities○ Condemnations

The City Attorney has prepared a comprehensive listing of legal services generally provided by the City Attorney, including some specific examples of services (Attachment 1).

Current Organizational Structure and Staffing Level

The City's current outsourcing model for providing legal services has been in place since 1989. Table 2 below is a summary chronology of the staffing in the City Attorney's office. Further detail is provided on Attachment 2.

Summary of City Attorney Staffing Chronology*

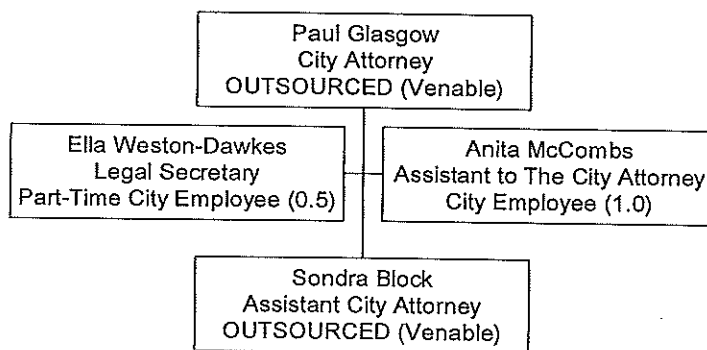
1966-1975	1976-1978	1979-1981	1982-1990	1991-2005	2006-Present
1 City Attorney 3 Asst City Attorney	1 City Attorney 3 Asst City Attorney	1 City Attorney 3 Asst City Attorney	1 City Attorney 3 Asst City Attorney	1 City Attorney 2 Asst City Attorney	1 City Attorney 1 Asst City Attorney
Titus - CA Glasgow - ACA Buzbee -ACA Ferretti-ACA	Titus - CA Glasgow - ACA Block - ACA Ferretti -ACA	Titus - CA Glasgow - ACA Block - ACA Lacey-ACA	Glasgow - CA Block - ACA Lacey-ACA Podolsky - ACA	Glasgow - CA Block - ACA Podolsky - ACA	Glasgow - CA Block - ACA
1 Support Staff	2 Support Staff	2 Support Staff	2 Support Staff	1.5 Supp. Staff	1.5 Supp. Staff

* All Attorney positions are part time CA - City Attorney ACA - Assistant City Attorney

Through the period covered by Table 2, the City legal services evolved from an in house operation to a largely outsourced operation. As can be seen, the City at one time utilized four in house attorneys, all of whom worked part-time for the City (fraction unknown) while also maintaining private practices. It is not known the extent to which supplemental outsourcing for legal services was used, if at all. Paul Glasgow was hired as the City Attorney in 1982, and in 1989 the City through Resolution 8-89 adopted on April 24, 1989, appointed Venable, Baetjer and Howard (Venable LLP) to act as general counsel to the City of Rockville (Attachment 3), with Mr. Glasgow continuing as City Attorney.

The Office of the City Attorney's FY 2009 organizational structure and staffing level is shown in Chart 1 below. The chart reflects the proposed budget staffing of 1.5 FTE authorized positions.

Chart 1
City Attorney Office - Proposed FY 2009



One method of estimating staffing requirements to bring the function back in house is to analyze the current billing and translate Venable billable hours to equivalent in house positions. In addition, the staffing for legal services by other jurisdictions provides useful supplemental data, if not a precise benchmark. (Attachment 4).

An analysis of Venable's invoices from January through December 2007 found a total of 19 attorneys and 3 paralegals utilized (over and above the 1.5 in house positions) across 18 billing categories (Attachment 5). Of the total 3,531.1 hours billed during this period, 247.8 (7%) were paralegal hours and 3,283.3 (93%) were attorney hours. The City Attorney billed 1,208.6 (36.8% of attorney hours) and the Assistant City Attorney billed 1,258.4 (38.3%) for a total of 2,467 hours (75.1% of the total attorney hours). Over the course of a full year, the City Attorney, and Assistant City Attorney perform legal work for clients other than the City. In addition to Venable LLC, the City utilizes the services of former Assistant City Attorney David Podolsky, through Stein, Sperling, Bennett, Dejong *et al* for his specialty in telecommunications, especially cable franchises. In FY 2007, Mr. Podolsky billed the City for 43.70 hours and in FY 2008 15.70 hours.

The total billable hours from Venable LLP for fiscal years 2008 (half), 2007 and 2006 are 1,744, 3,123 and 2,950. Based on the City's 37.5-hour work week, (and subtracting 7% for paralegal hours found in calendar year 2007), this equates to 1.67, 1.49, and 1.41 FTE attorneys. Because billable hours do not reflect leave hours (i.e., vacation and sick leave) and other normal "non-productive" time, this simple calculation does not directly yield actual in-house FTE's needed. Another important consideration in estimating required staffing is that the billable hours are spread across several attorneys representing different areas of expertise. Keeping these things in mind, however, the billable hours do provide useful data to build upon for estimating in house staffing requirements.

Because of the range of legal services provided and the breadth of expertise required, arriving at the number of attorneys required to staff an in-house function is not simply a matter of relying solely on these FTE figures. The data and our experience would seem to indicate two in-house attorneys would be needed. Because it is not likely that the entire range of required legal expertise could reside in two attorneys that the City would be able to hire, some level of contract services would likely be needed to supplement the in-house legal services. Some amount of the in house attorneys' time would be devoted to managing outsourced legal services, and other administrative duties.

Staff looked at seven cities within close geographic proximity to explore another benchmark for staffing levels. The results are summarized in Table 3 below. Different communities have different needs and allocate resources based on their priorities, which makes it difficult to draw conclusions directly transferable to Rockville. Nonetheless, Table 3 perhaps has some impressionistic value.

Table 3

Staffing Levels with in House City Attorney Departments				
	Total Staff	Attorneys	Support	Ratio:Attorneys to Support Staff
Hagerstown	Outsourced			
Frederick	6	3	3	1:1
Gaithersburg	1.5	1	0.5	2:1
Bowie	Outsourced			
Annapolis	7	2	5	0.4:1
Alexandria	14	8	6	1.33:1
Greenbelt	Outsourced			

Cost of Legal Services

The cost of all City legal services, both in house and outsourced, is displayed in Table 4 below. The Table includes expenditures for attorneys and in house paralegal and administrative staff. In FY 2006, the City spent a total of \$959,107; in FY 2007, \$1,121,212; and half way through FY 2008, \$565,163. The City accounts for its costs in the Operating Budget and the Capital Improvement Budget, in multiple funds (General Fund and various Enterprise Funds), and in two departments (City Attorneys Office and CPDS- Planning, for RORZOR-related expenses). In addition, the City currently outsources its legal work to one firm predominantly (with a minor amount of work going to a second firm), and provides in-house support through a legal assistant and secretarial help. The large majority (78%-87%) of total costs for these years are attributable to Venable's billings. Tables 5 and 6 below show a breakdown of these costs by fund and city function. The proposed FY09 budget is shown in Attachment 8.

The range of billable rates that Venable uses for its different attorneys and paralegal services range from \$195 an hour through \$475 an hour. The City Attorney's billing rate is \$325/hour and the Assistant City Attorney's is \$300/hour. Mr. Podolsky's billing rate is \$350 an hour. Its important to keep in mind that payments based on these rates are going to the firm, not the assigned attorney, and that firms are usually billing for their direct labor costs of both the attorneys and support staff (salaries and benefits), their general overhead (office space and utilities), liability insurance and other incidentals, and a margin for profit.

Table 4

Total Cost of Legal Services			
	FY 2006	FY 2007	Thru Dec. 2007
GF Operating Outsource – Venable LLP	554,966	646,103	372,114
CIP Outsource – Venable LLP	172,399	226,302	92,533
Other Outsource – Venable LLP	24,350	8,236	29,648
Total Outsource – Venable LLP	751,715	880,641	494,295
Operating Outsource – Stein, Sperling, Bennett, Dejong (previously in-house)	0	13,835	4,995
Operating In-House Attorney (Podolsky)	\$89,082	\$103,500	\$0
Operating In-House Support Services	\$118,310	\$123,236	65,873
Total Cost for Legal Services	\$959,107	\$1,121,212	\$565,163

Table 5 below shows the total amount the City spent with Venable LLP and the total billable hours, and "FTE equivalents." The City charges its Venable invoices to the General Fund, Stormwater Fund, Debt Service Fund, and Parking and Town Center CIP's. The CIP charges end in FY 2009 due to the completion of the projects.

Table 5

Cost of outsourcing current Services (Venable LLP) (Source: Venable Invoices FY 06, FY 07, FY 08.)			
Funding Source	FY 2006	FY 2007	Thru Dec. 2008
General Fund	554,966	646,103	372,114
Stormwater Fund	3,378	5,324	4,208
CIP - Town Center	144,793	226,302	92,533
CIP - Parking	27,606	0	0
Other	20,972	2,912	25,440
Total Outsource Cost	\$751,715	\$880,641	\$494,295
Billable Hours	2,950	3,123	1,744
FTE Equivalent all services (1950 Hour Week)	1.51	1.60	1.79
FTE Equivalent attorney services (1950 Hour Week)	1.41	1.49	1.67

Table 6 below reflects the distribution of outsourcing costs to Venable LLC, by City function, over the past two and a half fiscal years.

Table 6

Cost of Outsourcing Distributed by City Function						
	FY 2006		FY 2007		Thru Dec. 2007	
	Amount	Percent	Amount	Percent	Amount	Percent
Recreation & Parks	\$23,914	3.18%	\$29,425	3.34%	\$28,222	5.70%
Public Works	56,607	7.53%	46,382	5.27%	34,338	6.95%
CPDS Zoning	28,958	3.85%	134,511	15.27%	87,100	17.62%
CPDS	229,007	30.46%	237,434	26.97%	117,621	23.80%
General City	120,852	16.08%	155,057	17.61%	73,109	14.79%
Human Resources	52,522	6.99%	12,893	1.46%	11,745	2.38%
Codes	42,106	5.60%	30,401	3.45%	19,980	4.04%
Town Center	144,793	19.26%	226,302	25.70%	92,533	18.72%
Storm Water	3,378	0.45%	5,324	0.60%	4,208	0.85%
Bond Counsel	49,579	6.60%	2,914	0.33%	25,441	5.15%
Total	\$751,715	100%	\$880,641	100%	\$494,295	100%

In the FY 2009 proposed budget, reduced costs for legal services are anticipated due to completing the Town Center project, as well as bringing to a close the revision of the City's zoning ordinance.

DISCUSSION:

There are two viable options for providing legal services, as follows:

- Option 1: Contracting out for all legal services (Current method)
- Option 2: Developing an in-house City Attorney department

The analysis below focuses on the actual legal services, and assumes the current in house support services would remain essentially the same, although some increase might be needed. The majority of support services are currently provided in-house, with Venable providing additional secretarial and administrative support as needed. As mentioned previously, the expense for this additional support service is part of the Venable billable hours. While billable hours for Venable paralegals are negligible, the amount of administrative and secretarial support within Venable's billable hours is not known. If the function were brought in house, it may be found that additional administrative and secretarial support would be needed.

Option 1: Contracting out all of the City Attorney functions

Exclusive reliance on outside counsel is common practice among small local governments, although a part-time City Attorney who is able to do private practice work on the side is also sometimes used. Communities using outside counsel vary as to whether the City Attorney reports directly to the City Council or through the City Manager. Our current method has the City outsourcing virtually all attorney-provided legal services to a single firm, but with most of the paralegal and some administrative work accomplished by in-house City employees. Through this arrangement, the City pays only for the services utilized. In addition, the City Attorney has ready access within his own firm to virtually the full depth and breadth of the legal specialties required.

This outsourcing approach is successful to the degree the City is satisfied with the quality, timeliness, responsiveness, and cost of work products and outcomes. The City, however, currently has no established processes for either formally evaluating legal services or managing costs. The elements of an effective accountability system available to the Mayor and Council would include periodic performance evaluations and closer management by professional City staff of the legal services utilized. A selection of workload indicators and performance measures that could be used is shown in Attachment 6. Also, the City might wish to explore the feasibility of a fixed-retainer arrangement.

As an alternative, the City could continue to utilize this model, but instead of retaining a single firm, could distribute the work to multiple firms. This approach however, could result in a loss of economies of scale, as well as diminished convenience, consistency, and coordination that is obtained from utilizing one firm.

In either case, one firm or multiple firms, the City could go out to bid for professional legal services thereby ensuring that rates achieved are competitive and that the scope of services being provided are clearly articulated. Contracts for service can be negotiated in various ways e.g. flat fee + hourly rate, hourly rate, retainers etc. It should be kept in mind that this is a professional service and accordingly lowest cost/rates would not necessarily be the primary element considered.

Experience with municipal law would hold greater weight than cost alone, as use of inexperienced firms could result in greater overall costs, i.e. longer hours doing research to get an answer, and advice from counsel that could cause additional legal and administrative costs later.

Option 2: Developing an in-house City Attorney's Department

An in-house City Attorney's Office is typically found in many mid-sized and larger governments. In this model, the City Attorney functions as one of several department heads, and may report either directly to the Mayor and Council or the City Manager. Because even some of the largest City Attorney Offices cannot cover the full range of legal expertise required by a complex local government, such in-house offices typically require some level of selectively outsourced legal services, to one or more firms. Retaining and managing the outsource work is typically the City Attorney's responsibility.

Adopting an in-house approach would require creating job descriptions for the City Attorney and Assistant City Attorney, establishing salaries (with regular City benefits), and carrying out a recruitment and hiring process. No additional office space in City Hall would likely be needed immediately. Salary and benefit survey data are shown in Attachment 7. If recruiting experienced attorneys proves to be challenging, the compensation package might need adjusting.

Based on the data, it seems that a viable in-house department would require at least two attorneys: an experienced City Attorney, and an experienced Assistant City Attorney. The support staff could perhaps remain the same at the equivalent of 1.5 FTE's; however, an unknown amount of administrative secretarial workload handled within Venable is not included in that figure. Also, the productivity of the in house half-time secretarial position is not known. Further analysis might show a full-time secretarial position would be warranted for an in house legal department. The organization chart for this configuration is shown in Chart 2 below. The estimated total cost for an in-house City Attorney's department is shown in Table 7.

Chart 2
Proposed Structure of In-House City Attorney Department

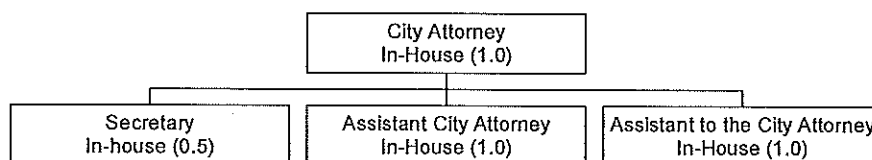


Table 7

Total Estimated Budget for in-house Attorney Department			
	Salary	Benefits	Total
City Attorney	\$183,000	\$45,750	\$228,750
Assistant City Attorney	\$129,000	\$32,250	\$161,250
Total	\$312,000	\$78,000	\$390,000
In-House – Support (1.5 FTE's)			\$108,000
In-House Supplies/Training			\$30,000
Sub -Total			\$528,000
Selected Outsourcing (157 hours) at blended rate of \$272.05 (2007 calendar hours less Glasgow and Block as adjusted for services no longer needed to be outsourced)			\$43,000
Total			\$571,000

Table 7 reflects that there will always be a need to contract out some specialty work. The figure shown for selected outsourcing is speculative, but is based on our analysis of invoices for 2007. Actual outsourcing needs will vary according to workload and required expertise. One-time costs that would be incurred, but are not shown, include \$25,000 (or more) for a recruitment search, and potential unknown costs for “overlapping expenses” for legal services during an organizational transition.

The Fiscal 2009 proposed budget of \$630,991 (Attachment 8) for the City Attorney’s Office assumes continuation of the current model. The entire proposed FY 2009 budget, other than \$10,000 for stormwater, is contained within the City’s General Fund within the City Attorney division. The above model shows an estimated budget for the in-house option of \$571,000, a potential savings of \$59,991. These full savings might not be achieved in the first year due to one-time costs (e.g., recruitment and transition expenses). If a fulltime secretary were found to be needed, savings would be reduced accordingly.

Reporting Relationship

Two viable options exist for the reporting relationship of the City Attorney under either the outsource or in-house model: (1) The City Attorney is hired by and reports directly to the Mayor and Council, or (2) the City Attorney is another Department Director, hired by and reporting to the City Manager. Under either approach the communication among the City Attorney, the Mayor and Council, and the City Manager, is the key to making any option work successfully.

To resolve which approach is most appropriate, one can ask the following question: Does the Mayor and Council want to get their legal advice directly from independent legal source or through the City Manager? The Mayor and Council currently oversee the City Manager, the City Clerk, and the City Attorney. A change in this reporting relationship would require a change to the City Charter.

Conclusion

The municipal environment is increasingly sophisticated and complex especially in our litigious society. Accordingly, many considerations need to be carefully taken into account in coming to a conclusion about how best to provide legal services for the City of Rockville.

As the Mayor and Council deliberate on this issue, it is important to have the goals and expectations clearly defined to ensure a satisfactory decision. The three predominant factors to take into account are cost (and the elements that drive costs), accountability, and quality of service.

The following are other operational considerations, and some intangibles, to be taken into account when considering the relative pros and cons of the two models:

- Availability of and access to the full range of required legal services, including availability of specialized attorneys
- Continuity of Attorneys over time, and depth of experience
- Recruitment and retention of staff
- Access to legal library and research
- Oversight and management
- Responsiveness and accountability
- Performance evaluation, and resolution of dissatisfactory performance issues
- Pay scale for appropriate experience
- Performance of management and administrative functions
- Maintaining appropriate skill sets through ongoing training and professional development
- Space and overhead considerations
- Organizational culture and change management

If an in-house City Attorney model is adopted, the handling of current work during a transition (e.g., Zoning Ordinance, current litigation) will need to be identified and managed. Whichever option is chosen, the City Attorney's Office, the City Manager and the Mayor and Council should agree on systems for managing and communicating with regard to legal services resources, workload, and performance. This may include establishing contracts that clearly explicate rates and services, including performance measures.

By considering the option of an in house City Attorney, the City in no way discounts that Venable LLC over the past two decades has served as a valuable partner to the City of Rockville. The City has been protected from costs associated with litigating cases, successfully condemned property, set up complex transactions such as Town Center and associated taxing districts, and has avoided lawsuits as it has moved to stricter development regulatory requirements. Nonetheless, as the city grows and changes, it is appropriate to continuously examine our services with an eye on maintaining high service levels, controlling expenses, and protecting the City and its assets.

cc: Paul Glasgow, City Attorney

ATTACHMENTS

1. Memo from Paul Glasgow – Services provided by the City Attorney
2. City Attorney Staffing Chronology
3. Resolution No. 8-89 Designating Venable, Baetjer and Howard to act as General Counsel to the City of Rockville
4. Survey matrix from seven other municipalities
5. Summary of hours by Attorney – January –December 2007
6. Selected Performance Measures for City Attorneys' Services
7. City/County Attorney Salary Survey of the National Capital Area
8. FY 09 Proposed Budget Office of the City Attorney



City of Rockville

MEMORANDUM

February 7, 2008

TO: Gavin Cohen, Director of Finance

FROM: Paul T. Glasgow, City Attorney

SUBJECT: Services provided by the City Attorney

The memorandum will summarize the legal services generally provided to the City along with some specific examples of services provided during the preceding 12 months.

Generally, this office provides legal opinions on a daily basis, many are informal oral opinions and sometimes a more formal written opinion is provided.

This office interacts with all departments in the preparation and review of various reports, making appropriate revisions and edits prior to finalization.

The City participates in the Montgomery County Self Insurance Fund, along with other public entities such as Montgomery County Public Schools, Montgomery College, and the Maryland National Capital Park and Planning Commission. Worker's Compensation claims and tort claims filed against the City are handled by Montgomery County through the Self Insurance Fund.

General

Attend meetings of Mayor and Council and provide advice as needed.

Attend Compensation Commission meetings and provide advice as needed.

Attend Landlord Tenant meetings when requested and provide advice as needed.

Provide general advice and assistance to staff on a daily basis. For example:
Assist staff in responding to citizen inquiries.

Assist staff in responding to requests for information under the Maryland Public Information Act, including review of documents prior to disclosure (approx. 5-10 requests within the past year)

Assist staff in preparing agenda sheets.

Provide interpretation of City codes and policies.

Review and comment on staff memoranda and reports.

Provide advice and assistance on open meetings issues

Provide advice to staff re: conflict of interest issues.

Provide assistance and advice to staff who receive deposition or court subpoenas and file motions for protective orders when necessary.

Prepare advertisements for public hearings.

Research information for staff:

- Re: property ownership and Montgomery County Land Records
- Annexation history
- Legislative history

Provide information to staff:

- Re: Application procedures (i.e. text amendment, map amendment, annexation, road abandonment, etc.)

- Briefbook procedures

Provide advice to City Clerk re: election issues and attend Board of Supervisors of Elections meetings when requested.

Review and/or prepare contracts, agreements and Memorandums of Understanding (MOUs) (approx. 120 this past year)

Legislation

Work with staff in researching and developing legislation (this past year):

- Zoning Ordinance (substantial amount of time devoted to this project)
- Forest Conservation Ordinance and regulation revisions
- Water Quality Ordinance

Prepare ordinances (approx. 18 this past year)

Prepare resolutions (approx. 10 this past year)

Planning

Attend Development Review Committee (DRC) meetings when requested and provide advice as needed.

Attend Planning Commission Meetings and provide advice as needed.

Attend Board of Appeals meetings when requested and provide advice as needed.

Attend Historic District Commission meetings when requested and provide advice as needed.

Attend meetings with staff and/or developers re: major developments and provide advice as needed.

- King Farm
- Fallsgrove
- Twinbrook Commons
- Archstone Development
- Town Center
- Upper Rock

Provide advice to staff on planning issues: special exceptions, use permits, non-conforming uses, annexation, road abandonment, interpretation of zoning ordinance, subdivision and ownership plats.

Provide advice to staff on historic preservation issues and conflict of interest issues.

Prepare and/or review various documents in connection with development in the City.

Public Works

Review and draft when necessary various easements:

- Stormwater management easements
- Storm drain easements
- Water and sewer easements
- Bus stop shelter easements
- Forest and tree conservation easements and maintenance agreements

Draft miscellaneous agreements, including Traffic Demand Management (TDM) Agreements

Review bonds, letters of credit and other security instruments for construction projects and permits. (approx. 45 this past year)

Recreation and Parks

Review and draft forest and tree conservation easements and maintenance agreements.

Review entertainment contracts and draft contract addendum for Hometown Holidays and other City events.

Review and prepare program participation releases.

Review and/or prepare contracts for Recreation and Parks programs and events (approx. 20)

Provide miscellaneous advice to staff.

Personnel

Provide miscellaneous advice to staff.

Respond to EEOC complaints.

Attend grievance hearings: assist staff in preparing for hearing; provide advice to grievance hearing officer as needed.

Represent City at arbitration hearing on union grievance; extensive preparation re: same.

Provide advice on leave issues (sick leave, on and off- the job injury leave, military leave).

Provide advice on disciplinary matters.

Represent the City in LEOBR (Law Enforcement Officers Bill of Rights) on disciplinary action taken against a police officer (participate in hearing, prepare discovery, review transcripts and other evidence, interview witnesses).

Litigation

Prosecute municipal infractions – Prepare files, interview inspectors and witnesses, prepare abatement orders, contempt petitions, provide advice to inspectors. (approx. 65 this past year)

Represent the City in the following legal challenges in the Circuit Court, Court of Special Appeals and Court of Appeals:

- Anderson House – Map amendment appeal
- Twinbrook Cell Tower
- Julius West Cell Tower
- Fortune Terrace
- E&B Enterprises
- COPT
- Spates Bungalow (historic designation appeal)

Town Square

Work on easements necessary for the development of the project.

Provide advice on Town Square development and operations

Reviewed and revised parking agreement with County.

Review and prepare WiFi documents

Work with staff to prepare and implement contracts.

Work on documents to allow placement of public art in the Town Square project

Specialized legal services provided by Venable attorneys in recent years.

Preparation of development and redevelopment agreements with private/public parties

Represent the City in Union contract negotiations

Provide specialized employment law advice and participate in grievance and arbitration hearings.

Provide specialized pension advice,

Provide specialized advice for health care benefits and insurance.

Provide trademark and copyright advice.

Act as bond counsel

Provide tax advice in connection with bond issues

Provide advice for nonprofit organizations affiliated with the City.

Provide advice on environmental issues.

Provide specialized bankruptcy advice.

Provide advice and services regarding construction contract disputes

City Attorney Staffing Chronology:

1973: Roger Titus –City Attorney (hired 1966) (part time) - Assistant City Attorneys
 Vince Ferretti (hired 1/69) (part time), William Buzbee (hired 7/21/64) (part time) - Paul Glasgow added in 3/73 (initially full-time, then converted to part-time) – one full time support staff (additional support staff was shared with the City Clerk's office)

Staffing: 1 City Attorney, 3 assistant City Attorneys (all part time),
 1 full time support staff – additional support staff shared with City Clerk's office

Between Feb. 76 & August 76 – Bill Buzbee left city.

11/76)– Sondra Block added as Assistant City Attorney (part time)

1/78 – Additional full time support staff added to attorneys office.

Staffing: 1 City Attorney, 3 assistant city attorneys (all part time),
 2 full time support staff (1 legal assistant, 1 legal secretary)

Mid 1979 – Vince Ferretti leaves city service

10/79 – Frank Lacey hired as Assistant City Attorney (part time)

Staffing: 1 City Attorney, 3 assistant city attorneys (all part time),
 2 full time support staff (1 legal assistant, 1 legal secretary)

Spring of 1982 – Roger Titus resigns as City Attorney and Paul Glasgow is appointed City Attorney

8/82 – David Podolsky hired as Asst. City Attorney (part time)

Staffing: 1 City Attorney, 3 assistant city attorneys (all part time),
 2 full time support staff (1 legal assistant, 1 legal secretary)

1989 – Venable name as general counsel – with Paul T. Glasgow to continue as City Attorney

June 1991 – Frank Lacey left City employment (not replaced)
 One support staff position reduced to part time.

Staffing: 1 City Attorney, 2 assistant city attorneys (all part time),
 1 full time support staff (legal assistant)
 1 Part time support staff (legal secretary)

October 2006: David Podolsky retires (not replaced)

Staffing: 1 City Attorney, 1 assistant city attorney (all part time),
 1 full time support staff (legal assistant)
 1 Part time support staff (legal secretary)

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Resolution No. 8-89

RESOLUTION: Designating Venable, Baetjer and
Howard to act as General Counsel to
the City of Rockville

WHEREAS, legal needs of the City have become increasingly more complex and diverse, thus necessitating the need for selection of a law firm having a broad range of capabilities to act as general counsel to the City; and

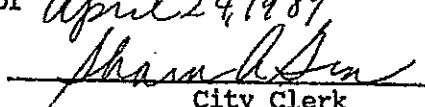
WHEREAS, the law firm of Venable, Baetjer and Howard has, for many years, provided assistance to the City on a variety of matters; and

WHEREAS, Venable, Baetjer and Howard has developed substantial familiarity with the operations and workings of the City and is in a unique position to be able to assist the City on an on-going basis because of its broad expertise, past employment and experience, and familiarity with the workings and needs of the City; and

WHEREAS, the designation of Venable, Baetjer and Howard as general counsel to the City will permit the City to continue to utilize the services of Venable, Baetjer and Howard in all those areas not presently met by the City's legal staff in order to better meet the overall legal needs of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that the firm of Venable, Baetjer and Howard is selected to act as General Counsel to the City, with Paul T. Glasgow to be the responsible partner and to continue in his capacity as City Attorney of Rockville.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Mayor and Council at its meeting of April 24, 1989


City Clerk

Survey Questions About In-House Counsel		Hagerstown	Frederick	Gaithersburg	Bowie	Annapolis	Alexandria	Greenbelt
#1 Does your City have a "City Attorney"?	No		Yes	Yes	Yes	Yes	Yes	Yes
#2 If yes to question #1: a) How many attorneys?	N/A		1 attorney, 2 assistant attorneys	1	1	1 attorney, 1 asst attorney	1 attorney, 1 sr asst attorney, 6 asst attorney	1
b) How many other staff and what are their titles?	N/A		1 legis clerk, 1 legal asst, 1 admin asst	1-Administrative Assistant	N/A	1 para legal, 4 Administrative Assistants	1 supervisor, 2 legal secretaries	N/A
c) Are the attorneys City employees or contract?	N/A		attorney-appt., 2 asst attorney hired	City employee	Contract	Contract	City employees	Contract
d) Are other staff City employees or contract?	N/A		City employee	City employee	N/A	1 para-legal-contract, 4-Admin Asst.-City employee	City employees	N/A
#3 Who does the City Attorney report to (i.e., Council or City Manager)?	N/A		Mayor	City Manager	Council & City Manager	Neither-report to Mayor	Council	Council & City Manager
#4 Does your jurisdiction contract out for other attorney services?	Yes-100%		Yes	Yes	Yes	Yes	Yes	Yes
a) If so, do you have an active contract?	No		No	Yes	Yes	Yes	Yes	Yes
b) Do you use a single firm or multiple firms for services?	Multiple		N/A	Single	Multiple	Multiple	Multiple	Multiple
c) What services do you retain?	Employment attorney advice & opinions, i.e., Union grievance			Zoning & Land Use		Collective bargaining w/unions, bond counsel, complex litigation matters	Large litigation cases & juvenile cases	
#6 How much do you spend on an annual basis for all the services the firms provide?	\$10,000+		Fy08-\$651,255	\$150,000-200,000	\$150,000	Depends on amount of litigation in year	\$1,300,000.00	\$80,000-102,000
#7 What are the billable hours paid in a year or the FTE equivalent?	45 billable hours						11 FTE	
#8 What is your budget for legal services?	FY07/08 Proposed-\$238,000		FY08 Adopted-\$673,976	FY07/08 Adopted-\$254,549	FY07/08 Adopted-\$150,000	FY08 Adopted-\$757,950	FY08 Approved-\$3,257,747	FY08 Adopted-\$85,300
#9 What is the population of your City?	2006-38,326		57,907	60736	55,800	36,408	136,000	20,933

January - December 2007
Venable Invoices

ATTORNEYS	SERVICES	BLOCK	GLASGOW	KOGER	MIRUSSI	WILLIAMS	DELUCA	FAGAN	CLANCY	SCHLAFF	O'BRIEN	COATS	CUMBIE	CALVERT	HUDSON	AMES	WALDMAN	ZIFFER	SHEPHERD	BROWN	TOTAL ATTY.	PARALEGALS		
																						GIBSON	LANDGREN	WSE
	ZONING ORD. REV.	333.20	72.20																			406.40	215.70	
	ZONING & PLAN.- GEN'L LEG. ADVICE	363.70	321.20	252.50	0.80	2.50	2.10															942.80	0.50	
	PERS. GEN'L LEG. ADVICE	28.10	0.30					2.50	8.10													37.00		
	GEN'L EMPLOYEE BENEFITS									4.60	0.30											4.80		
	GEN'L LABOR RELATIONS														3.40	8.20						11.80		
	GRIEVANCE							3.40														3.40		
	PW-GEN'L LEG. ADVICE	128.60	56.90	13.00		4.30																200.80		
	R&P-GEN'L LEG. ADVICE	128.90	16.10																			145.00		
	NON-PROFIT FOUND.- R&P																5.10	0.10				5.20		
	ENFORCE. OF CODE VIOLATIONS	6.80	2.30	116.80			11.90															137.90		
	GEN'L LEG. ADVICE	189.70	297.80	3.80					2.30			2.20	0.80	0.50								497.10	23.10	
	ARBITRATION							14.50														14.50		
	SWIM FUND	21.70																				21.70		
	TOWN CNTR	58.60	409.10				96.30					5.20										570.20		
	T. C. CONSTR OF PT		2.30																			2.30		
	T. C.-R.E.																							
	T. C. CONSTR CLAIM		30.40			44.70													136.50		2.00	136.50		
	2007 BOND ISS.																					77.00		
	TOTAL	1,258.40	1,208.80	356.10	0.80	51.50	110.30	20.40	8.40	4.60	0.30	7.40	41.50	30.20	3.40	8.20	5.10	0.10	136.50	2.00		3,283.90	216.20	8.50

FTE EQUIVALENT (1850)

TOTAL HOURS

19 ATTORNEYS	3,283.30	92.98%	1.68
3 PARALEGALS	247.80	7.02%	0.13
	<u>3,531.10</u>		

Selected Performance Measures for City Attorneys' Services

Workload Measures

- Number of claims filed against the City
- Number of lawsuits filed against the City
- Number of lawsuits and administrative actions filed or initiated by the City
- Number of total departmental requests for service
- Number of code enforcement cases
- Number of formal opinions issued
- Number of Conflict of Interest reviews
- Number of resolutions prepared
- Number of ordinances prepared
- Number of development agreements prepared
- Number of contracts prepared
- Number of training course held for City Employees in the areas of personnel/labor law, planning law subpoenas etc.

Efficiency Measures

- Cost of total legal services as a percentage of total legal costs
- Cost of external Counsel as a percentage of total legal costs

Effectiveness/Outcome Measures

- Percent of claims settled prior to litigation
- Percent of new cases resolved
- Percent of claims resolved resulting in no monetary payout
- Percent of lawsuits resolved resulting in monetary payout
- Percent of customer survey respondents rating quality of legal services as good or excellent
- Percent of customer survey respondents rating timeliness of legal services as good or excellent
- Percent of written opinions provided within 30 days of request
- Percent of city employees rating City Attorney training courses as good or excellent
- Percent of time Council Member conflict of interest requests are responded to within 10 working days

City/County Attorney Salary Survey of the National Capital Area

Montgomery County Attorney's Salaries

County Attorney	\$197,000
Deputy County Attorney	\$143,461
Division Chief	\$70,632 to \$128,222
Assistant County Attorney	\$74,254 to \$124,521
Assistant County Attorney II	\$59,490 to \$98,860
Assistant County Attorney I	\$51,724 to \$85,737

City of Alexandria - \$182,240

Prince Georges County

Fairfax County - \$201,560, no bonus, maximum on deferred compensation, use of car, cell phone

City of Gaithersburg - \$84,120 to \$132,927

City of Frederick - \$88,821 to \$142,230

City of Annapolis - \$77,637 to \$124,220

Salary Survey Data – HRA of the National Capital Area

75 percentile blended rate - \$183,000 for Deputy General Counsel

75 percentile blended rate – \$129,000 for In-house Attorney III

75 percentile blended rate - \$58,000 for Senior Legal Secretary

Department of the Mayor and Council

Division: Office of the City Attorney

Division Purpose:

The Office of the City Attorney acts as legal advisor to the Mayor and Council, boards and commissions and City staff. The office prepares legal documents for the City and is responsible for preparing for enactment all additions and amendments to the Rockville City Code. The Office of the City Attorney represents the City before administrative agencies and federal and state courts where the City is a party to or has an interest in legal proceedings.

Significant Changes:

Adopted FY08 to Estimated Actual FY08

During FY09 the in-house Assistant City Attorney retired and the vacant position was eliminated. Currently, the work performed by the Assistant City Attorney is being fulfilled by contracting for these services.

Estimated Actual FY08 to Proposed FY09

None.

Objectives:

- Implement the Town Center development agreement. Prepare easements, Town Center Commercial Management District documents, and condominium documents
- Support staff with the implementation of the Master Plan recommendations including preparation of appropriate legislation
- Assist staff with the development and implementation of neighborhood master plans
- Provide legal support to staff in conjunction with the development in King Farm, Falls Grove, Tower Oaks, Town Center, Twinbrook Commons, Upper Rock, and Chestnut Lodge
- Assist staff to review and prepare development related agreements and easements, such as stormwater management easements, storm drain and storm sewer easements, transportation demand management agreements, forest conservation and maintenance agreements, public access easements, etc.
- Provide advice and document preparation for general obligation bonds and pension issues/amendments
- Prosecute municipal infraction citations
- Represent the City's interests in legal proceedings before federal and

- state courts and administrative agencies
- Defend challenges to decisions/actions of the Mayor and Council, Boards and Commissions, and staff
- Regularly attend meetings of Mayor and Council and Planning Commission
- Prepare legislation and development approval documents as directed by the Mayor and Council
- Work with staff to amend Chapter 19 (Sediment Control) to add new provisions regarding water quality
- Work with staff to draft the new City zoning ordinance
- Provide legal support to Boards and Commissions
- Provide legal support on a wide variety of topics to the Mayor and Council, City Manager and staff
- Assist staff in responding to Freedom of Information Act requests
- Represent the City in employment grievances and Equal Employment Opportunity complaints
- Assist staff in complying with the Health Insurance Portability and Accountability Act (HIPPA) and other Federal laws and regulations
- Advise staff on advertising, notification and procedural requirements

Regular Positions:

Position Title	Adopted FY07	Adopted FY08	Proposed FY09
Assistant City Attorney – Part Time (Appointed)	0.5	0.5	0.0
Assistant to the City Attorney	1.0	1.0	1.0
Total	1.5	1.5	1.0

Supplemental Information:

In order to meet the ever-increasing diverse and complex legal needs of the City, the City engages Venable, LLP to serve as counsel to the City. Venable's extensive resources permit the City to call upon their expertise to provide advice and representation in such varied areas as labor relations, employment law, bond financing, commercial real estate transactions, business transactions, environmental law, bankruptcy and creditors rights, employee benefits related to the City's pension plan and health insurance, commercial leasing, construction, copyright and land use.

Department of the Mayor and Council

Division: Office of the City Attorney

Division Expenditures by Cost Center	Actual FY07	Adopted FY08	Est. Act. FY08	Proposed FY09
Office of the City Attorney	767,207	748,491	631,056	630,991
Division Total	\$767,207	\$748,491	\$631,056	\$630,991

Division Expenditures by Type	Actual FY07	Adopted FY08	Est. Act. FY08	Proposed FY09
Salary and Wages	188,482	180,900	94,100	94,900
Benefits	25,594	24,400	12,600	12,900
Overtime	0	0	0	0
Personnel Subtotal	\$214,076	\$205,300	\$106,700	\$107,800
Contractual Services	552,321	542,590	523,755	522,590
Commodities	810	601	601	601
Capital Outlays	0	0	0	0
Other	0	0	0	0
Operating Subtotal	\$553,131	\$543,191	\$524,356	\$523,191
Division Total	\$767,207	\$748,491	\$631,056	\$630,991

Source of Division Funds	Actual FY07	Adopted FY08	Est. Act. FY08	Proposed FY09
Departmental Revenue	0	0	0	0
Subtotal	\$0	\$0	\$0	\$0
Fund Contribution				
General Fund (110)	761,883	718,491	621,056	620,991
Sewer Fund (220)	0	5,000	0	0
Refuse Fund (230)	0	10,000	0	0
Stormwater (330)	5,324	15,000	10,000	10,000
Subtotal	\$767,207	\$748,491	\$631,056	\$630,991
Division Total	\$767,207	\$748,491	\$631,056	\$630,991

Staffing Summary by Cost Center (FTEs)	Actual FY07	Adopted FY08	Est. Act. FY08	Proposed FY09
Regular				
Office of the City Attorney	1.5	1.5	1.0	1.0
Regular Subtotal	1.5	1.5	1.0	1.0
Temporary				
Office of the City Attorney	0.5	0.5	0.5	0.5
Temporary Subtotal	0.5	0.5	0.5	0.5
Division Total	2.0	2.0	1.5	1.5